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10/813,604	03/31/2004	Thomas Palmieri	2006P26237 US	4357

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

EXAMINER

WRIGHT, PATRICIA KATHRYN

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/813,604	Applicant(s) PALMIERI ET AL.	
	Examiner P. Kathryn Wright	Art Unit 1797	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 06 August 2009 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

/P. Kathryn Wright/
Examiner, Art Unit 1797

Continuation of 10. Other (including any explanation in support of the above items): Continuation of 10. Other (including any explanation in support of the above items): The brief fails to identify and set forth the structure that corresponds to the each claimed function with reference to the specification by page and line number for each of the independent claims. For example, the brief fails to identify where item (c) in independent claims 27 and 39 to a programmable controller, which is programmed to determine an individual path along the continuous loop for each of the vessels wherein the determination of each path is based on a resource requirement associated with each vessel, is clearly set forth in the specification. The Appeal Brief cites page 2, lines 24-page 3, line 2 as corresponding the claimed structure and function of the programmable controller, however the cited portion in the specification does not mention a "programmable controller" controller that makes any determination of an "individual path", wherein the determination is based on a "resource requirement". The "resource requirements" are defined in Appellant's specification at page 11, lines 22-24 as including "types of reagents added, duration of incubation, number of reagent added, dilution, agitation, and number of wash cycles". It is worth noting that the specification does disclose a controller (not disclosed as programmable) for controlling the transport of a vessel by the transport device from the vessel adding station to the vessel removing station base on information that (i) identifies a test or operation being performed in the vessel and (ii) identifies a location of a vessel holder that holds the vessel in the transport device (see page 3, lines 19-23and page 5, lines 6-15 of the specification). This does not describe the programmable controller that is programmed to "determine an individual path" for each of the vessel "based on resource requirements" (i.e., types of reagents added, duration of incubation, numbers of reagents added, dilution, agitation, and number of wash cycles). There is no calculation of any individual path a long a continuous loop..